

REMARKS

This Response is made to the final Office Action dated May 6, 2009. Claims 1-4, 6-15, 17, 18, 21, 32 and 42-52 are pending in this application. Favorable reconsideration is respectfully requested in view of the remarks appearing below.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-4, 6, 7, 32, 42, 51 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Frantzen patent in view of DE Publication 19728337 to Ehrfeld (the "Ehrfeld publication"). Applicants note that the Examiner acknowledges that the Frantzen patent fails to disclose the use of a marker holder having projecting fingers with a substantially linearly extending contact edge, the use of a V-shaped opening or that the radiopaque marker includes a V-shaped mounting area region with linearly extending contact edges. The Examiner relies on the Ehrfeld publication to disclose the shortcomings in the Frantzen patent. However, Applicants strongly disagree with the Examiner's position for a number of reasons.

First, the Ehrfeld publication appears to be directed to a **mechanism for locking the struts forming the stent body** into an expanded configuration. The Ehrfeld mechanism has nothing to do with attaching separate components to a stent, no less attaching radiopaque markers to a stent. The Frantzen patent teaches the use of radiopaque markers at the ends of a stent in order to increase the overall radiopacity of the stent. The Frantzen patent does not disclose the use of a structure/mechanism for locking the stent body into an expanded position. Therefore, one skilled in the art, in viewing both the Frantzen patent and the Ehrfeld publication, would readily recognize that the locking structure/mechanism of the Ehrfeld publication could be incorporated into the stent disclosed in the Frantzen stent. This feature would allow the stent body of the Frantzen patent to be locked into an expanded position, which is the exact and straightforward teaching of the Ehrfeld publication. The Examiner's position that one skilled in the art would somehow **modify** the Ehrfeld mechanism to now connect radiopaque markers to a stent goes well beyond the teachings of this particular reference.

The composite stent created from the combination of the Frantzen patent with the Ehrfeld publication would include both radiopaque markers located at the ends of the stent, as is disclosed in the Frantzen patent, along with a locking mechanism for maintaining the stent in the expanded position, as is disclosed in the Ehrfeld publication. In regard, the composite stent would enjoy the benefits of the features disclosed in both of these references. However, this composite stent formed from the Frantzen patent and the Ehrfeld publication is not the structure recited in the pending claims. For this reason alone, the combination of the Frantzen patent with the Ehrfeld publication would not create the structure recited in the pending claims. It is submitted that the particular combinations of art relied on by the Examiner would not have achieved the innovative structure defined in the pending claims. Applicants respectfully request the Examiner to withdraw all of combination of obviousness rejections raised against the pending claims.

Claims 8-15, 17, 18, 21 and 43-50 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Frantzen patent in view of the Ehrfeld publication and in further view of U.S. Patent No. 6,503,271 to Duerig et al. (the "Duerig patent"). All of these claims have been rejected on the basic combination of the Frantzen patent and the Ehrfeld publication. As addressed above, the combination of the Frantzen patent with the Ehrfeld publication would simply fail to create the basis structure now recited in all of the rejected claims. The secondary reference relied on the Examiner, namely, the Duerig patent, also fail to address the shortcomings of the Frantzen and Ehrfeld combination to achieve the basic structure of the rejected claims. For this reason alone, the combination of references suggested by the Examiner would simply not produce the structure recited in the rejected Claims. Applicants respectfully request the Examiner to withdraw the obviousness rejections raised against these claims.

In view of the foregoing, it is respectively urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

The commissioner is authorized to charge any deficiencies in fees or credit any overpayments to our Deposit Account No. 06-2425.

Respectfully submitted,
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